Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	

To: The Commission

PETITION FOR RECONSIDERATION AND CLARIFICATION

Filed by:

NEXTEL PARTNERS, INC.

Albert J. Catalano
Matthew J. Plache
CATALANO & PLACHE, PLLC
1054 31st Street, NW, Suite 425
Washington, DC 20007
Telephone: (202) 338-3200
Facsimile: (202) 338-1700
Its Attorneys

Donald J. Manning, Vice President,
And General Counsel
Todd B. Lantor, Chief Regulatory Counsel
NEXTEL PARTNERS, INC.
4500 Carillon Point
Kirkland, WA 98033
Telephone: (425) 576-30
Facsimile: (425) 576-3650

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SUMMARY

Nextel Partners, Inc. ("Nextel Partners") supports the Commission's efforts to establish designation criteria and reporting requirements aimed at ensuring that Universal Service support is used to promote the goals established by Congress under sections 214(e) and 254 of the Communications Act. The needs and interests of rural citizens and the goal of promoting buildout of telecommunications systems, including mobile systems, in rural areas must be given prominent consideration in ETC designation decisions.

Under the mandate of section 254(b), the Universal Service Fund should be used to foster the development of mobile services in rural areas, and recent designations by the Commission highlight the importance of this Congressional goal. Nextel Partners is concerned however that certain provisions of the *Report and Order*, rather than fostering the use of Universal Service support to accomplish the buildout of a rural wireless infrastructure, may instead have an undue chilling effect on the provision of Universal Service support to wireless ETCs.

Under the *Report and Order* states may adopt their own standards for the designation and regulation of ETCs, including competitive wireless ETCs. Although the Commission "encourages" states to adopt requirements similar to those set forth in the *Report and Order*, it does not make clear that states *cannot* adopt requirements that might undermine the goals of Universal Service, by, for example, inappropriately disadvantaging wireless providers. The Commission should clarify that while states may choose to consider different public interest factors, these factors must be selected and evaluated in accordance with Congressional policies aimed at promoting telecommunications services widely available in urban areas, including mobile services, to rural consumers.

The requirement that common carriers must meet reasonable requests for service arises under federal law as promulgated by Congress in Section 201(a) of the Act. The apparent suggestion in the *Report and Order* that states may determine, "pursuant to state law", what constitutes a "reasonable request for service" is an inappropriate delegation by the FCC to the states of the authority to interpret federal law.

The *Report and Order* requires each ETC and applicant for designation to submit a "formal" five-year network improvement plan "describing with specificity its proposed improvements or upgrades … on a wire center-by-wire center basis." However, all carriers, regardless of their technology, will have substantial difficulty creating a five-year service improvement plan. The Commission should therefore reconsider its five-year plan requirement, and shorten the forecasting requirement to a more workable and realistic time period. Such a submission would still allow for assessment of a carrier's commitment and ability to provide the supported services.

The Commission should also reconsider its requirement that each ETC and applicant for designation must "acknowledge that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area." Even assuming the legality of such a condition, it is superfluous and will create unnecessary confusion in the industry.

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Nextel Partners, Inc. ("Nextel Partners"), by undersigned counsel and pursuant to section 1.429 of the rules of the Federal Communications Commission ("FCC" or "Commission"), 47 CFR § 1.429, submits this Petition for Reconsideration and Clarification of the Commission's Report and Order in this proceeding (the "*Report and Order*").[1]

I. INTRODUCTION

Nextel Partners supports the Commission's efforts to establish designation criteria and reporting requirements aimed at ensuring that Universal Service support is used to promote the goals established by Congress under sections 214(e) and 254 of the Communications Act of 1934 (the "Act"), 47 USC §§ 214(e) and 254. Nextel Partners concurs with the fundamental principles established by Congress to foster the buildout and maintenance of telecommunications systems in rural areas, and to ensure that rural citizens have access to the same types of services available in urban areas, at reasonably comparable rates.[2] In any ETC designation decision, the needs and

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[1] *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371 (2005), published at 70 Fed. Reg. 29960 (May 25, 2005).

[2] *See, e.g.*, 47 USC § 254(b)(3).

interests of rural citizens and the goal of promoting buildout of telecommunications systems in rural areas, including mobile systems, must be given prominent consideration.

Rural citizens benefit greatly from the unique attributes afforded by mobility in telecommunications services. These services have become pervasive in urban centers but remain nascent in many rural and less populated areas. Under the mandate of section 254(b), the Universal Service Fund should be used to foster the development of mobile services in rural areas, and recent designations by the Commission of wireless ETCs demonstrate a recognition of the importance of wireless service to rural citizens. Nextel Partners is concerned however that certain provisions of the *Report and Order*, rather than fostering the use of Universal Service support to accomplish the buildout of a rural wireless infrastructure, may instead have an undue chilling effect on the provision of Universal Service support to wireless ETCs.

In particular, Nextel Partners has the following concerns with the *Report and Order*: (1) The flexibility of States to adopt ETC eligibility and compliance requirements that are potentially different from or more stringent than those set forth in the *Report and Order* may undermine Congress' Universal Service goals or otherwise conflict with the federal preemption of the regulation of mobile carriers under section 332(c)(3) of the Act, 47 USC § 332(c)(3); (2) The decision of what constitutes a "reasonable request" for service should not be delegated to the states but instead should be based on Commission-adopted standards pursuant to section 201(a) of the Act, 47 USC § 201(a); (3) The imposition of a five-year planning requirement on ETCs fails to take into account the realities of the competitive wireless services markets. Detailed five-year plans of the sort called for in the *Report and Order* are not generated in the wireless industry since they require projections that are beyond the horizon of reliable forecasting—an 18-month planning requirement would be more realistic and useful; and (4) The Commission should reconsider the requirement that competitive ETCs must acknowledge they may be required to provide equal access if all other ETCs in their service area relinquish their designations; at a minimum, the Commission should make clear that the decision of whether to require any wireless carrier to provide equal access is one that can *only* be made by the FCC in accordance with section 332(c)(8) of the Act, 47 USC § 332(c)(8), and not by any state.

II. NEXTEL PARTNERS IS COMMITTED TO SERVING RURAL CITIZENS AS AN ETC AND THIS COMMITMENT GIVES IT A STRONG INTEREST IN THIS PROCEEDING

Nextel Partners has a compelling interest in this proceeding because its business focus is to bring state-of-the-art digital mobile communications services to smaller, rural markets including, high-cost and insular areas. Nextel Partners was formed in 1999 as a joint venture with Nextel Communications, Inc. ("Nextel Communications") specifically for the purpose of accelerating the deployment of service to those areas outside of the major urban markets that have been built out and are operated by Nextel Communications.[3] Nextel Partners' highly successful relationship with Nextel Communications provides unique benefits to these secondary and tertiary markets. The relationship seamlessly extends the national reach and power of the Nextel® nationwide network into these remote markets providing customers in places like Dothan, Alabama with the same advanced Nextel® products and services at substantially the same prices as are available in urban markets such as Atlanta, Georgia.

When it was founded in January of 1999, Nextel Partners served fewer than 50,000 customers in just two operating markets. In less than six years, the company has built out its system in over 30 states covering approximately 54 million people and now has more than 1.7 million customers. To reach these milestones, Nextel Partners has constructed over 4,000 cell

[3] Nextel Partners and Nextel Communications are separate publicly-held companies, traded on the NASDAQ exchange.

sites, the vast majority of which provide coverage in second and third tier cities and rural corridors throughout the United States. With its rapid build out, Nextel Partners has not lost sight of its core business philosophy: strive for 100% customer satisfaction. In addition to providing customers with greater communications options, Nextel Partners has raised the bar with respect to customer satisfaction. Nextel Partners' 1.4% churn rate for the first quarter of 2005 was among the lowest in the industry.

The Nextel Partners – Nextel Communications relationship provides significant benefits to customers in rural areas. Nextel Partners not only deploys the same technology used by Nextel Communications in urban areas, but also maintains the same high level of network performance and customer service standards that have made Nextel Communications successful in urban areas. As a result, all of Nextel Partners' customers, even those in the most rural parts of its coverage territory, receive the same service benefits available to urban citizens, including: access to a fully digital nationwide network; national and international Direct Connect service (push-to-talk) which allows for cheaper and faster communications; wireless access to the Web; interoperability for public safety; mobility; larger local calling areas; location-based technologies; and E911 service and emergency communications. Moreover, all of these services are provided at substantially the same rates as provided by Nextel Communications in its urban markets and with no roaming charges. Equally important, Nextel Partners, as a wireless carrier, brings to rural citizens, in many cases for the first time, the benefit of customer choice that serves as both a compliment and option to wireline telephone service.

Nextel Partners' business focus fits squarely within the mission of universal service. Accordingly, the company has pursued and obtained designation as an ETC in 15 states, and is drawing Universal Service high-cost support.[4] The support Nextel Partners is now receiving is having a positive effect on facilitating the continued build out of its system in rural areas. In several instances, the expected universal service support, although not guaranteed as with wireline carriers, is the differentiating factor that provides a bare minimum return on investment to justify expansion of the network into these remote areas.

III. THE COMMISSION SHOULD MAKE CLEAR THAT STATES MUST ADHERE TO THE CONGRESSIONAL GOALS OF UNIVERSAL SERVICE IN ADOPTING ETC DESIGNATION CRITERIA OR REGULATORY REQUIREMENTS THAT DIFFER FROM THOSE ADOPTED BY THE COMMISSION

The Commission should clarify that while states may choose to consider different public interest factors in their evaluation of ETC applications, these factors must be chosen and evaluated in accordance with Congressional goals promoting universal service, including mobility, in rural areas. It is well established that states may not enact laws or regulations or otherwise take actions that stand in the way of achieving the full purpose and objective of federal laws. As the U.S. Supreme Court has stated:

> Even where Congress has not completely displaced state regulation in a specific area, State law is nullified to the extent that it actually conflicts with federal law. Such a conflict arises … when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress."[5]

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[4] *See Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a Nextel Partners Petitions For Designation as an Eligible Telecommunications Carrier in the States of Alabama, Florida, Georgia, Pennsylvania, Tennessee, and Virginia, Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition For Designation as an Eligible Telecommunications Carrier in the State of New York*, 19 FCC Rcd 16530 (2004) (hereafter, "*Nextel Partners Designation Order*"), amended by *Erratum* dated September 13, 2004, 2004 FCC Lexis 5271, in which the FCC granted ETC designation to Nextel Partners in seven states; *Application for Review pending*. Nextel Partners also has been designated as an ETC by state commissions in Arkansas, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Mississippi and Wisconsin.

[5] *Fidelity Savings & Loan Association v. De la Cuesta*, 458 U.S. 141, 153 (1982), *citing Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

The express purpose of the Communications Act, as stated in section 1 thereof, is: to "make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient nationwide and worldwide wire and radio communication service with adequate facilities at reasonable charges."[6] Congress created the Universal Service support mechanisms to help ensure that *all people of the United States*, including those in rural and hard-to-serve areas, would have access to the same types of telecommunications services at reasonably comparable rates. Thus, Congress stated in section 254 of the Act,

> Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.[7]

The recent designations by the FCC of wireless competitive ETCs are fully in accord with the goals articulated by Congress in establishing Universal Service support. In the *Virginia Cellular* decision, the Commission found that mobility in telecommunications service brings important public interest benefits to rural citizens, as it "assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations … [and] provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities."[8] As observed

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[6] 47 USC § 151.

[7] 47 USC § 254 (b)(3).

[8] *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition For Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 1563, ¶ 29 (2004) ("*Virginia Cellular*").

by Chairman Powell in a separate statement accompanying the *Virginia Cellular* order, "we recognize the unique value that mobile services provide to rural consumers."[9] Similarly, the Commission emphasized these same public interest benefits in designating Nextel Partners as an ETC.[10] Indeed, as the Commission recently made clear, facilitating the widespread deployment of wireless services "to all Americans, including those doing business in, residing in, or visiting rural areas," is "[o]ne of the Commission's primary statutory obligations, as well as one of its principal public policy objectives."[11] The designation of wireless ETCs helps to meet these fundamental goals of Congress and the Act.

The Commission's designation criteria set forth in the *Report and Order* further the fundamental policy objectives of Congress by "adopt[ing] the fact-specific public interest analysis [the Commission] has developed in prior orders," and mandating that "the Commission will consider a variety of factors in the overall ETC determination, including … the unique advantages and disadvantages of the competitor's service offering."[12] As made clear in the *Virginia Cellular* order, one of the unique advantages offered by wireless ETCs is mobility in

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[9] *Id.*, Separate Statement by Chairman Michael K. Powell, at ¶ 1.

[10] *See Nextel Partners Designation Order*, at ¶ 18.

[11] *See Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services; 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services; Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation*, Report and Order and Further Notice of Proposed Rulemaking, WT Dockets No. 02-381, 01-14 and 03-202, at ¶ 4 (rel. September 27, 2004).

[12] *Report and Order* at ¶ 41.

telecommunications,[13] and the *Report and Order* ensures that the importance of mobility will not be ignored in future Commission decisions.

Although the Commission "encourages" states to adopt requirements similar to those set forth in the *Report and Order*, it does not make clear that states *cannot* adopt requirements that might undermine the goals of Universal Service, by, for example, inappropriately disadvantaging wireless providers, a possibility that the Commission itself highlights in the *Report and Order*. For example, the Commission observes,

> In determining whether any additional consumer protection requirement should apply as a prerequisite for obtaining ETC designation from the state – *i.e.*, where such a requirement would not otherwise apply to the ETC applicant – we encourage states to consider, among other things, the extent to which a particular regulation is necessary to protect consumers in the ETC context, *as well as the extent to which it may disadvantage an ETC specifically because it is not the incumbent LEC*. We agree with the Joint Board's assertion that "states should not require regulatory parity for parity's sake. [citation omitted.] We therefore *encourage* states that impose requirements on an ETC to do so only to the extent necessary to further universal service goals.[14]

Mere "encouragement" to states to act in a manner consistent with the Act is not sufficient. As the Supreme Court has held, states are preempted from enacting regulations that stand as an obstacle to accomplishing the objectives of Congress.[15] Indeed, while the Act gives states authority to designate ETCs and enact rules for doing so, that authority is carefully limited: "A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service."[16] Thus, the Act requires that states behave consistently with the Commission's rules *and* with the goals of Universal Service. As discussed above, those goals

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[13] *See Virginia Cellular* at ¶ 29.

[14] *Report and Order* at ¶ 30 (emphasis added).

[15] *Fidelity Savings & Loan, supra.*

[16] 47 USC § 254 (f).

include ensuring that rural citizens have access to the same telecommunications services enjoyed by citizens in urban areas, *including mobility*. A state regulation or action that disadvantages or otherwise inhibits wireless ETCs would be contrary to the goals of Universal Service, and would be preempted under the Act. The Commission should therefore clarify that a state's public interest analysis must take place within the Congressional framework seeking to establish services for rural citizens that are comparable to those available in urban areas, including mobility.

IV. THE DECISION AS TO WHAT CONSTITUTES A "REASONABLE REQUEST FOR SERVICE" SHOULD NOT BE DELEGATED TO THE STATES AND SHOULD BE BASED ON FCC-ADOPTED STANDARDS

The requirement of meeting "reasonable requests for service" is grounded in section 201(a) of the Act, which provides, "It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefore."[17] The Commission previously determined that this requirement, applicable to all common carriers, would prevent ETCs from limiting their service only to the most desirable customers.[18] In recent designation decisions the Commission set forth guidelines for determining whether a competitive ETC is meeting the reasonable request for

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[17] 47 USC § 201(a).

[18] *In the Matter of Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, ¶¶ 12-13 (2000); *In the Matter of Federal-State Joint Board on Universal Service; Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier*, 16 FCC Rcd 39, at ¶ 9, n.29 (2000); *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 142-43 (1997).

service requirement,[19] and the *Report and Order* adopts similar requirements consistent with those recent decisions, for determining whether reasonable requests for service are being met.[20]

Rather than mandating that these same criteria for determining whether reasonable requests for service are being met shall apply to state-designated ETCs, the *Report and Order* instead appears to delegate to states the authority to "determine, *pursuant to state law*, what constitutes a 'reasonable request' for service."[21] Such a delegation to states of the authority to define the meaning of "reasonable request for service" is not appropriate. The requirement that common carriers must meet reasonable requests for service arises under federal law as promulgated by Congress in section 201(a) of the Act. The apparent suggestion in the *Report and Order* that states should determine, "pursuant to state law," what constitutes a "reasonable request for service" is an inappropriate delegation by the FCC to the states of the authority to interpret Federal law.

Nowhere has Congress indicated that such a delegation of authority should occur.[22] The FCC therefore cannot delegate to the states the Commission's obligation and authority to interpret section 201(a), regardless of whether such interpretations are applicable to all or only some classes of common carriers, and even if such delegation is enfolded under the cloak of ETC regulation. The Commission should clarify that the requirements established in the *Report and Order* for determining whether reasonable requests for service are being met, are applicable to

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[19] *See, e.g., Virginia Cellular* at ¶ 15.

[20] *Report and Order* at ¶ 22.

[21] *Id.* At ¶ 21 (emphasis added).

[22] *See United States Telecom. Assoc. v. FCC*, 359 F.3d 554, 555-56 (D.C. Cir. 2004) (FCC cannot delegate decisions to states that Congress has charged the FCC to make).

all ETCs designated by the FCC or by a state, and that states do not have the authority to alter or deviate from those requirements.

V. THE COMMISSION SHOULD REQUIRE ETCs TO SUBMIT AN 18-MONTH BUILDOUT PLAN, RATHER THAN A FIVE-YEAR PLAN

The *Report and Order* requires each ETC and applicant for designation to submit a "formal" five-year network improvement plan "describing with specificity its proposed improvements or upgrades … on a wire center-by-wire center basis."[23] The plan is required to include extensive detail as it must (1) demonstrate "how signal quality, coverage, or capacity will improve;" (2) provide "the projected start date and completion date for each improvement;" (3) set forth "the specific geographic areas where the improvements will be made;" and (4) disclose "the estimated population that will be served as a result of the improvements."[24] The preparation and submission of such a five-year plan poses significant problems.

All carriers, regardless of their technology, will have substantial difficulty creating a five-year service improvement plan. Nextel Partners does not plan this far ahead, and will likely have difficulty doing so with any degree of confidence. The telecommunications industry is in a period of rapid technological change, both with regard to the technologies being used and the services being provided. Consumer demand for specific wireless services or devices is difficult to predict and changes rapidly. Because of these unknowns, the investment community on which Nextel Partners relies to finance its network expansion neither requests nor expects forecasts of the sort requested under the *Report and Order*. Moreover, it is not clear how federal universal

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[23] *Report and Order* at ¶¶ 23 and 68. The *Report and Order* requires that, "If an ETC had not previously submitted a network improvement plan to the Commission, it should do so with its first reporting compliance filing." *Id.* at n.191.

[24] *Id.* at ¶ 23.

service funding will be calculated and distributed over the long run, much less how much any particular carrier will receive.

Nextel Partners' plans for network improvement are generally developed the year prior to their implementation. This allows Nextel Partners to plan based on what customers are demanding, on what technology is most efficient, and on what capital and universal service funding is available. Nextel Partners therefore asks the Commission to reconsider its five-year plan requirement, and to shorten the forecasting requirement to a more workable and realistic time period, such as 18 months.

Requiring ETCs to submit an 18-month plan, rather than a five-year plan, would still allow for assessment of a carrier's commitment and ability to provide the supported services, since the ETC will still be required to submit annual reports on improvements in signal quality, coverage, or capacity and detailing how support money is used.[25] In sum, the five-year planning obligation will require a costly effort in forecasting solely to satisfy a regulatory requirement through the production of a report of marginal reliability that is not otherwise necessary to assessing a carrier's commitment and ability to provide supported services. Accordingly, the Commission should shorten the requirement as requested herein.[26]

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[25] *Id.* at ¶ 69.

[26] In the event the Commission decides to maintain the five-year planning requirement, the Commission should recognize the inherent inaccuracies of projections reaching beyond the18-month horizon and clarify that carriers may provide less specificity for projections beyond 18 months of a network improvement plan. Additionally, in light of the unreliability of long-term projections, the Commission should clarify that carriers will be allowed to revise their long-term projections at regular intervals based on changing data and service needs.

VI. THE COMMISSION SHOULD RECONSIDER THE REQUIREMENT THAT ETCs ACKNOWLEDGE THEY MAY BE REQUIRED TO PROVIDE EQUAL ACCESS

In the *Report and Order*, the Commission adopts a requirement that each ETC and applicant for designation must "acknowledge that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area."[27] Despite this certification requirement, the Commission has not imposed a general equal access requirement on ETCs, and has not made a determination that might alter the statutory exclusion of mobile service providers from the equal access requirement as established in section 332(c)(8) of the Act.[28] The Commission's requirement of the "equal access" certification cannot be construed as a pre-judged determination that equal access will be required in any particular instance. The Commission has specifically reserved such a decision until such time and "if such circumstances arise" that may warrant imposing an equal access requirement.[29] Indeed, the Act makes clear that extension of the equal access requirement to mobile service providers must be done pursuant to a rulemaking proceeding adopting regulations of general applicability, and based on a public

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[27] *Id.* at ¶¶ 35-36, 69.

[28] 47 USC § 332 (c) (8).

[29] *Id.* at ¶ 35.

interest determination.[30] No such rulemaking or determination has occurred. At best, the equal access certification is superfluous.[31]

An "equal access" certification will simply result in undue confusion amongst carriers and states as to the meaning and purpose of the certification with no countervailing public interest benefit. The requirement may even have a chilling effect on the plans of would-be applicants for ETC designation that want to avoid any suggestion that they may have agreed in advance to become subject to an equal access requirement should other competing carriers in their respective service areas cease to provide equal access.[32] Accordingly, the Commission should revise its order to eliminate the equal access certification requirement.

Short of granting reconsideration on this issue, the Commission should clarify that it has not prejudged whether to impose equal access in any particular instance, and will do so, if at all, in accordance with the requirements of section 332(c)(8) of the Act. Finally, the Commission should clarify that under section 332(c)(8), only the Commission can determine whether to require any mobile carrier to provide equal access, and no state has the authority to make such a decision.

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[30] 47 USC § 332 (c) (8) ("If the Commission determines that subscribers to [mobile] services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribes unblocked access to the provider of telephone toll services of the subscribers' choice….").

[31] Nextel Partners continues to believe, as previously expressed to the Commission, that imposing equal access on wireless ETCs would be inconsistent with section 332(c)(8) of the Act. *See In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision, 18 FCC Rcd 2943, Separate Statement of Commissioner Kathleen Q. Abernathy (2000).

[32] If equal access ever were imposed on wireless ETCs, implementation issues would inevitably arise for carriers that could be facing an equal access requirement in only one service area within their much wider coverage area.

VII. CONCLUSION

For the reasons set forth above, the Commission should grant reconsideration and clarification of its *Report and Order*.

Respectfully submitted,

NEXTEL PARTNERS, INC.

By: /s/ Albert J. Catalano

Albert J. Catalano
Matthew J. Plache
CATALANO & PLACHE, PLLC
1054 31st Street, NW
Washington, DC 20007
Telephone: (202) 338-3200
Facsimile: (202) 338-1700

Donald J. Manning, Vice President,
And General Counsel
Todd B. Lantor, Chief Regulatory Counsel
NEXTEL PARTNERS, INC.
4500 Carillon Point
Kirkland, WA 98033
Telephone: (425) 576-3600
Facsimile: (425) 576-3650

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